

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LEONTAYE L. COMBS,)
Plaintiff,)
v.)
JOHN HAYDEN, et al.,)
Defendants.)
No. 4:21-cv-407-DDN

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff, an inmate at the Jefferson City Correctional Center, initiated this case on April 7, 2021 by filing a civil rights complaint under 42 U.S.C. § 1983 against St. Louis Metropolitan Police Chief John Hayden, police officer Glennon Frigerio, and “Entire St. Louis Metropolitan Police Department.” He also filed a motion leave to proceed *in forma pauperis*. The Court granted the motion and assessed an initial partial filing fee, and reviewed the complaint pursuant to 28 U.S.C. § 1915(e)(2).

On July 13, 2021, the Court entered an order in which it determined the complaint was subject to dismissal because, *inter alia*, plaintiff failed to allege that any named defendant was directly involved in or personally responsible for causing harm, and his allegations failed to state a claim of constitutional dimension. The Court directed plaintiff to file an amended complaint to cure the defects. In so doing, the Court clearly explained why the complaint was subject to dismissal, gave plaintiff clear instructions about how to prepare the amended complaint, and cautioned him that his failure to timely comply with the order would result in the dismissal of his case without prejudice and without further notice.

Plaintiff's response was due to the Court on August 12, 2021. To date, however, he has neither complied with the Court's order, nor sought additional time to do so. The Court gave plaintiff meaningful notice of what was expected, cautioned him that his case would be dismissed if he failed to timely comply, and gave him additional time to comply. Therefore, this action will be dismissed at this time, without prejudice, due to plaintiff's failure to comply with this Court's July 13, 2021 order and his failure to prosecute his case. *See Fed. R. Civ. P. 41(b); see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order); *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (per curiam) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so). This dismissal will not count as a "strike" for purposes of 28 U.S.C. § 1915(g).

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS HEREBY CERTIFIED than an appeal from this dismissal would not be taken in good faith.

Dated this 27th day of August, 2021.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE